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Before the

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
 Amendment of the Commission's)
 Rules to Establish New)
 Personal Communications)
 Services)

Gen. Docket No. 90-314

REPLY TO COMMENTS ON
 PETITIONS FOR RECONSIDERATION OF
ASSOCIATION FOR MAXIMUM SERVICE TELEVISION, INC.

The Association for Maximum Service Television, Inc. ("MSTV") hereby files reply comments to the oppositions and comments on the Petitions for Reconsideration filed in response to the Second Report and Order, Gen. Docket No. 90-314, adopted on September 23, 1993.^{1/}

REPLY COMMENTS

In the petitions for reconsideration filed in response to the Second Report and Order and in the comments to such petitions, a few parties have proposed that the Commission reallocate the 1990-2010 Mhz band to mobile satellite services ("MSS").^{2/} MSTV urges the Commission to reject this proposal.

^{1/} MSTV is a trade association of approximately 250 local broadcast television stations committed to achieving the highest technical quality feasible for the local broadcast system.

^{2/} See Comments of Utilities Telecommunications Council, Gen. Docket No. 90-314, at 8 n.12 (Jan. 3, 1994); COMSAT, Petition for Partial Reconsideration, Gen. Docket No. 90-314, at 4, 21-22 (December 8, 1993); AMSC Subsidiary Corporation, Petition for Reconsideration, Gen. Docket No. 90-314, at 5-6 & 5 n.10 (Dec. 8, 1993).

As the Commission is well-aware, the 1990-2110 MHz band is currently allocated to auxiliary broadcast operations. See 47 C.F.R. §§ 2.106, 74.602(a) (1993); see also In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Services (NOI), 5 FCC Rcd 3995, 3997 (1990) (noting that 1990-2110 MHz band is "allocated to auxiliary broadcast and cable use"). As MSTV explained in the reply comments it filed in response to the Commission's Notice of Inquiry regarding the WRC-93 agenda, television broadcasters rely extensively on this band incident to their daily operations. See Reply Comments of MSTV, ET Docket 93-198, at 3-4 (July 29, 1993).

The Commission has considered and rejected a proposed allocation of spectrum in the 1990-2110 MHz band to new wireless telecommunications.^{3/} The Commission reached this decision only after careful study, and based its conclusion on sound technical and engineering considerations. There was no evidentiary basis to justify the initial proposal

^{3/} See In the Matter of Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunication Technologies (First Report and Order), 7 FCC Rcd 6886, 6890 (1992) (the "First Report and Order"); see also In the Matter of Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies (NPRM), 7 FCC Rcd 1542, 1544-45 (1992) (noting that OET spectrum study concluded that "it is not practicable to relocate" broadcast auxiliary operations); Creating New Technology Band for Emerging Telecommunications Technology, OET/TS 92-1 (January 1992) (concluding that broadcast auxiliary spectrum not appropriate for reallocation); cf. In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Services (NPRM), 5 FCC Rcd 3995, 3998 (1990) (seeking comment on the feasibility of relocating the incumbent users of the 1990-2110 MHz band).

and none has been offered to justify revisiting the Commission's decision not to allocate the 1990-2010 MHz band to new telecommunications service.

Nevertheless, COMSAT urges the Commission to "proceed immediately to implement the WARC-92 allocations for MSS" in the 1970-2010 MHz band. COMSAT, Petition for Partial Reconsideration, Gen. Docket No. 90-314, at 4, 20-21 (Dec. 8, 1993). Likewise, AMSC urges the FCC to allocate additional spectrum for MSS, including the 1990-2010 MHz band. AMSC, Petition for Reconsideration, Gen. Docket No. 90-314, at 5 (Dec. 8, 1993); see also Comments of UTC, Gen. Docket No. 90-314, at 8 n.10 (Jan. 3, 1994) (supporting COMSAT/AMSC proposal). Essentially, COMSAT, AMSC, and UTC are urging the Commission in this docket to implement the WARC-92 1990-2010 MHz band allocation for MSS without regard to its impact on domestic broadcast auxiliary operations.

MSTV does not oppose the allocation of additional spectrum to MSS as a general matter. But however appropriate the 1970-2010 MHz allocation was internationally, it is not feasible domestically. As COMSAT, AMSC, and others must realize, there are numerous other allocations that are available for MSS operations; there is, however, no alternative spectrum currently available for broadcast auxiliary use.

Moreover, the current domestic allocation of the 1990-2010 MHz band to broadcast auxiliary operations is clearly necessary. The broadcast auxiliary band already

suffers from congestion.^{4/} Furthermore, even though there is every reason to believe that this congestion will significantly increase with the advent of ATV,^{5/} if the Commission has decided not to allocate spectrum for ATV broadcast auxiliary operations.^{6/}

Perhaps most significantly, there is currently no evidence demonstrating that sharing between broadcast auxiliary operations and MSS would even be feasible.^{7/} Given the significant unresolved issues regarding the compatibility -- and thus the feasibility -- of MSS sharing of the 1990-2010 MHz band with existing broadcast operations, any

^{4/} See In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service (Second Report and Order), 7 FCC Rcd 3340, 3352 (1992); see also Reply Comments of MSTV, ET Docket No. 93-198, at 4 (July 29, 1993); Reply Comments of MSTV, Gen. Docket No. 89-554, at 3-4 (Jan. 8, 1991); Comments of Capital Cities/ABC, Engineering Statement of Kenneth Brown, Gen. Docket No. 90-314 (Oct. 1, 1990); Cohen, Television Auxiliary Frequencies Usage Surveys, Washington, D.C. (1989) (attached to the NAB's Comments in Gen. Docket No. 90-314 (Oct. 1, 1990)); see also Comments of NAB, Gen. Docket No. 90-314 (Oct. 1, 1990); Comments of Capital Cities/ABC, Inc., Gen. Docket No. 90-314 (Oct. 1, 1990); Comments of Cox Broadcasting and Multimedia, Inc., Gen. Docket No. 90-314 (Oct. 1, 1990); Comments of H & C Communications, Inc., Gen. Docket No. 90-314 (Oct. 1, 1990).

^{5/} See Reply Comment of MSTV, ET Docket No. 93-198, at 4 & 4 n.5 (July 29, 1993).

^{6/} See In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service (Second Report and Order), 7 FCC Rcd 3340, 3352 (1992).

^{7/} In fact, AMSC, one of the parties urging the Commission to allocate the 1990-2010 MHz band to MSS, suggested in an earlier proceeding that sharing between MSS and other services would not be feasible. See First Report and Order, 7 FCC Rcd at 6888 n.15. In its petition for reconsideration, AMSC has not presented any data showing that its earlier assessment of the potential for sharing is no longer valid.

consideration of an allocation of this band for MSS must be deferred.


CONCLUSION

MSTV urges the Commission to reject the proposal by COMSAT, AMSC, and others to expand the PCS docket to include the allocation of spectrum in the 1990-2010 MHz band to MSS.

Respectfully submitted,

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